Calendar No. 938

101ST CONGRESS
2d Session

SENATE

REPORT
101-502

VANCOUVER NATIONAL HISTORICAL RESERVE

OCTOBER 5 (legislative day, OCTOBER 2), 1990.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2771]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2771) to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. STATEMENT OF FINDINGS.

The Congress finds that—

(1) the city of Vancouver, Washington, has a unique array of contiguous historical sites and resources which chronicle important steps in the settlement and development of the Northwest, including—

(A) Fort Vancouver National Historic Site, the site of the Hudson's Bay Company trading post established in 1825;

(B) Vancouver Barracks, an active military instaliation since 1849;

(C) Officers' Row National Register Historic District, 21 adaptively rehabilitated military officers' quarters;

(D) Pearson Airpark, an early United States Army airfield and one of the oldest operating airports in the country; and

(E) the Columbia River, an early Northwest exploration and settlement corridor, including the route of the Lewis and Clark expedition, center of Indian trade, shipbuilding, and fishing;

(2) these historical assest are owned and managed by several governmental entities, including the National Park Service, the City of Vancouver, and the United States Army;

(3) sites within the Vancouver historical area are in a state of transition and are the focus of various proposals and initiatives;

(4) there is a lack of formal coordination of management or planning among the various entities; and

S313-62.

(5) failure to coordinate the planning and management within the historical area may result in lost opportunities to preserve and enhance irreplaceable historical sites and open space.

SEC. 2. VANCOUVER HISTORICAL STUDY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Vancouver Historical Study Commission which shall study and make recommendations regarding—

(1) the preservation, protection, enhancement, enjoyment, and utilization of the historic, cultural, natural, and recreational resources of the historical area; and

(2) the feasibility of establishing a Vancouver National Historical Reserve.

(b) MEMBERSHIP.—The Commission shall consist of the following five members:

(1) The Director of the National Park Service, or his designee.

(2) One individual appointed by the Secretary from among recommendations submitted by the Mayor of Vancouver to represent the City of Vancouver.

(3) The Secretary of the Army, or his designee.

(4) One individual appointed by the Secretary from among recommendations submitted by the Governor of Washington to represent the State Historic Preservation Office.

(5) One individual appointed by the Secretary to represent the general public.

(c) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expanses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary.

(f) QUORUM.—3 members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide to the Commission, on a reimbursable basis, information, personnel, property, and services to assist in carrying out its duties under this Act. The Secretary may accept the services of personnel detailed from the State of Washington or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) TERMINATION OF COMMISSION.—The Commission shall terminate upon submission of the study report to the Secretary as provided in section 3.

SEC. 3. DUTIES OF THE COMMISSION.

(a) REPORT.—(1) The Commission shall prepare a report—

(A) specifying the results of the study required by section 2(a); and

(B) containing—

(i) an inventory and assessment of the historic, cultural, natural, and recreational resources located within the historical area;

(ii) specific preservation and interpretation goals;

(iii) proposed alternative management strategies whereby the funds, data, personnel, and authorities of public and private entities may be coordinated; and

(iv) recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the historical area, compatible with other historic and cultural resources of the historical area, including the Fort Vancouver National Historic Site.

(2) In making recommendations under paragraph (1)(B)(iv), the Commission shall assess—

(A) the impact of current airport operations on the preservation, use, and interpretation of historic and cultural resources in the historical area; and

(B) future operation of the airport taking into account mitigation measures as may be necessary to minimize the intrusion on adjacent historic and cultural resources.

(b) DEVELOPMENT OF STUDY.—In undertaking the study under section 2(a), the Commission shall—

(1) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the historical area;

(2) consult with interested conservation, business, professional and citizen organizations; and

(3) conduct public hearings within the historical area, and at such other places as may be appropriate, for the purpose of providing interested persons with the opportunity to testify with respect to matters to be addressed by the study.

(c) TRANSMITTAL OF STUDY REPORT.—Not later than eighteen months after the date funds are made available for the study, the Commission shall submit the report required under subsection (a) to the Secretary and the Secretary of the Army. The Secretary shall submit the report along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within thirty days after receipt of such report from the Commission.

SEC. 4. DETERMINATION OF SUITABILITY OF CERTAIN REAL PROPERTY.

(a) NOTIFICATION OF THE SECRETARY.—The Secretary of Defense shall notify the Secretary upon any determination by the Secretary of Defense that any real property located at the Vancouver Barracks is excess property of the Department of Defense.

(b) REVIEW OF PROPERTY BY THE SECRETARY.—Not later than ninety days after receiving notification from the Secretary of Defense under subsection (a), the Secretary shall—

(1) review the property that is the subject of the notification with respect to the suitability of all or part of the property for administration by the Secretary or the State of Washington or its political subdivisions; and

(2) report to the Congress the findings of that review and recommendations for any legislation.

SEC. 5. RESTRICTION ON DISPOSAL OR USE OF PROPERTY.

Notwithstanding any other provision of law, any real property located at the Vancouver Barracks that is determined by the Secretary of Defense to be excess property of the Department of Defense may not be disposed of or used by any Federal agency before the end of the one-year period following submission of the report to the Congress regarding such property under section 4(b).

SEC. 6. DUTIES OF OTHER FEDERAL ENTITITES.

Any Federal entity conducting or supporting activities directly affecting the historical area shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out its duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the provisions of this Act.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Commission" means the Vancouver Historical Study Commission established by section 2;

(2) the term "historical area" means the area which incorporates those resources listed in section (1); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

PURPOSE OF THE MEASURE

The purpose of S. 2771, as ordered reported, is to establish a Commission consisting of Federal and local representatives to

study the feasibility of establishing the Vancouver National Historical Reserve in the State of Washington.

BACKGROUND AND NEED

Located on the north bank of the Columbia River in the city of Vancouver, Washington, are several historical sites and structures pertaining to the area's settlement during the mid-1800's. They include: the Fort Vancouver National Historical Site, site of the Hudson's Bay trading post established in 1835; the Vancouver barracks, an active military site since 1849; twenty-one of the military officers' quarters, preserved in the Officers' Row National Register Historic District; the Pearson Airpark, one of the oldest operating airports in the country; and the Columbia waterfront, which served as a center of Indian trading and was along the route of the Lewis and Clark expedition. These sites and structures are currently administered and managed by a variety of state, federal, and local entities.

S. 2771, as ordered reported, would establish a Commission, consisting of federal and local representatives, to study the feasibility of including these sites and structures under one management regime through the establishment of the Vancouver National Historical Reserve.

LEGISLATIVE HISTORY

S. 2771 was introduced by Senators Adams and Gorton on June 21, 1990. Similar legislation, H.R. 5144, has been introduced in the House of Representatives by Congresswoman Unsoeld. The Subcommittee held a hearing on S. 2771 on September 20, 1990.

At the business meeting on September 26, 1990, the Senate Committee on Energy and Natural Resources ordered S. 2771, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 26, 1990, by a unanimous vote of a quorum present, recommends that the Senate pass S. 2771, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	
Mr. Bingaman*	
Mr. Wirth*	
Mr. Conrad	
Mr. Heflin*	
Mr. Rockefeller	
Mr. Akaka*	
Mr. McClure	
Mr. Hatfield*	

Mr. Domenici
Mr. Wallop
Mr. Murkowski
Mr. Nickles*
Mr. Burns
Mr. Garn*
Mr. McConnell*

* Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of S. 2771, the Committee adopted an amendment in the nature of a substitute. In addition to numerous technical and conforming changes, the substitute amendment makes one major substantive change in the bill. As introduced, S. 2771 would have designated the Vancouver National Historical Reserve and established a Coordinating Commission to prepare a cooperative management plan for the Reserve and advise the Secretary and the Governor of Washington regarding the management of the area.

As amended by the Committee, a different type of Commission is established and directed to prepare a study to address, among other things, the historic, cultural, and other resources of this area, and to make recommendations concerning the feasibility of establishing a Vancouver National Historical Reserve. Such a study will then be used by the Congress to more fully assess the resources of this important area before making any final decisions about the future management of the area.

SECTION-BY-SECTION ANALYSIS

Section 1 contains Congressional findings and lists the purposes of the Act. This section also includes a list of sites and historic resources which comprise the historical area referred to elsewhere in the Act. The reference in paragraph (E) to the "Columbia River" refers to that portion of the riverfront area contiguous to the existing National Historic Site.

Section 2(a) establishes the Vancouver Historical Study Commission. The Commission is to study and make recommendations regarding the preservation, enhancement, enjoyment and utilization of the historic, cultural, natural, and recreational resources of the historical area.

Subsection (b) provides for appointment of the five-member Commission.

Subsections (c) through (i) set forth standard provisions for the day-to-day operation of the Commission and are self-explanatory.

Section 3 provides for the duties of the Commission.

Subsection (a) directs the Commission to prepare a report including the results of the study mandated by section 2 as well as additional information as follows: an inventory and assessment of the historic, cultural, natural, and recreational resources locted within the historical area; specific preservation and interpretation goals; proposed alternative management strategies so that the funds, data, personnel, and authorities of public and private entities may be coordinated; and recommendations concerning the continued op-

eration of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the historical area, compatible with other historical and cultural resources of the historical area, including the Fort Vancouver National Historic Site.

This subsection also provides that in making recommendations concerning the Pearson Airpark, the Commission is to assess the impact of current airport operations on the preservation, use, and interpretation of historic and cultural resources in the historical area as well as future operation of the airport, taking into account mitigation measures as may be necessary to minimize the intrusion on adjacent historic and cultural resources.

With respect to the Airpark, the Committee takes no position at this time regarding whether it should be closed or remain open once the permit expires in the year 2002. Once the study is completed, the Committee will be in a better position to make a judgment about this facility. In this regard, the Committee expects that a wide spectrum of options for the Airpark will be considered during the study process.

Subsection (b) provides for consultation between the Commission and interested parties during the preparation of the study as well as the requirement that public hearings be held.

Subsection (c) directs the Commission to complete the study report not later than 18 months after the date funds are made available and to transmit the report to the Secretary of the Interior and the Secretary of the Army. The report is to then be forwarded, within 30 days, to the appropriate Committees of Congress including any comments or recommendations the Secretary wishes to make.

Section 4 concerns the real property located at the Vancouver Barracks.

Subsection (a) provides that the Secretary of Defense is to notify the Secretary of the Interior upon making a determination that any real property located at the Vancouver Barracks is excess to the needs of the Department of Defense.

Subsection (b) directs the Secretary of the Interior, not later than 90 days after receiving notification from the Secretary of Defense that such property is excess to the needs of the Department of Defense, to review the property to determine its suitability for administration by the Secretary or the State of Washington or its political subdivisions and to report to the Congress the findings of that review and recommendations for any legislation.

Section 5 restricts the disposal or use of the Vancouver Barracks property by providing that if such property is determined to be excess to the needs of the Department of Defense, it may not be disposed of or used by any federal agency before the end of the one year period following the submission of the report required by section 4(b)(2).

Section 6 relates to the duties of federal entities conducting or supporting activities directly affecting the historical area. Such entities are to: consult with the Secretary and the Commission with respect to such activities; cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and to the maximum extent practica-

ble, conduct or support such activities in a manner consistent with the provisions of this Act.

Section 7 contains definitions of terms used in the Act which are self-explanatory.

Section 8 authorizes the appropriation of such sums as may be necessary to carry out the purposes of the Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1990.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2771, a bill to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, September 26, 1990. We estimate that the implementation of this bill would cost the federal government about $200,000 over fiscal years 1991 and 1992, assuming appropriation of the necessary sums.

S. 2771 would establish a five-member study commission to identify and assess certain resources in the Vancouver historical area and to assess the feasibility of establishing a Vancouver National Historical Reserve. Also, the bill would require the Department of Defense (DoD) to notify the Department of the Interior (DOI) of any real property at Vancouver Barracks that is found to be unneeded. The DOI then would have 90 days to assess such property and report to the Congress on its suitability for park and recreational purposes. For one year following the submission of the DOI report, the DoD woud be prohibited from using or disposing of this property. The bill would authorize the appropriation of whatever sums are necessary for these purposes.

CBO estimates that the DOI would spend about $200,000 to support the study commission's activities during fiscal years 1991 and 1992. The cost of assessing DoD holdings at Vancouver Barracks are not expected to be significant.

The enactment of this bill is not expected to have any impact on the budgets of state or local governments.

On September 24, 1990, CBO prepared a cost estimate for H.R. 5144, as ordered reported by the House Committee on Interior and Insular Affairs on September 19, 1990. The estimated costs of the two bills are identical.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2771. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2771, as reported.

EXECUTIVE COMMUNICATIONS

On September 12, 1990, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 2771. These reports had not been received at the time the report on S. 2771 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF DENIS GALVIN, ASSOCIATE DIRECTOR, PLANNING AND DEVELOPMENT, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I appreciate the opportunity to provide the Committee with the Administration's views on S. 2771, a bill to establish the Vancouver National Historical Reserve in Vancouver, Washington.

We oppose this measure.

S. 2771 seeks to establish a national historical reserve in the City of Vancouver by bringing together under one management umbrella, a Vancouver National Historical Reserve Coordinating Commission, a variety of properties all currently in varying levels of public ownership. The Commission, consisting of representatives of the National Park Service, the City of Vancouver, the Secretary of the Army, the Governor of Washington, and the Commissioners of Clark County, Washington, would prepare within three years a cooperative management plan for the reserve and assist the Secretary of the Interior and the Governor of Washington in reviewing and monitoring its implementation by the agencies having jurisdiction over the various elements of the reserve. The Commission would terminate ten years following the date of enactment of S. 2771. Salaries and expenses would be borne by the Secretary of the Interior either directly or through reimbursement to other governmental entities.

Mr. Chairman, rather than go through a lengthy litany of the duties and responsibilities of the Commission established under section 3 of this bill, let me simply say that

we oppose establishment of this Commission. We have been informed by the Department of Justice that the bill raises constitutional concerns by effectively granting substantive authority to a Commission that is partly composed of state officials. Although the Secretary has the ultimate authority to decide whether the Commission's plans will be implemented, he has no authority to require changes in the plans or to implement a plan under the bill that has not been submitted and approved by the Commission.

In addition, bringing these properties together in a reserve diminishes the stature of the current Fort Vancouver National Historic Site by including within the reserve properties of lesser historic significance. Administration of the reserve by a committee whose members represent diverse interests beyond historic preservation could threaten the integrity of Fort Vancouver, for which purposes have already been established by Congress. We fully subscribe to the concept of cooperative efforts through partnerships; however, in this instance formalizing this relationship in the manner described in H.R. 5144 would not in our view be either wise or constitutional. It should be noted that one of the management objectives contained in the current master plan for the park calls for cooperation ". . . with other governmental and private organizations with the mutual concern of preserving the historic and natural environment of the area. . . ."

Mr. Chairman, the crux of our objection to this bill, however, stems from the inclusion in it of subsection 5(c) entitled "Pearson Airpark." Subsection 5(c) would extend the use-and-occupancy rights of the City of Vancouver for Pearson Airpark from the current expiration date of 2002 to 2050. It is the only provision of S. 2771 that cannot be accomplished without legislation. Let me review for the Committee the history of the real property interests in the Pearson Airpark.

The western portion of the airpark was originally owned by the U.S. Army and was given to the City of Vancouver in 1949. At the request of the City of Vancouver, the National Park Service purchased the western half of Pearson Airpark from the city in 1972. The acquisition was intended, in part, to fulfill the Congressional mandate associated with Fort Vancouver National Historic Site, as the airpark is located immediately adjacent to the national historic site and intrudes both visually as well as aurally on the site. It is our intent to restore this area to the historic scene associated with the agricultural/pastoral usage of the property during its occupancy by the Hudson's Bay Company from 1824 to 1846. Visitor safety at the national historic site is an additional major concern of park management.

As a part of the acquisition process, the Service agreed to a request by the city of a retained use-and-occupancy provision whereby the city would be permitted to use the

facility until the year 2002, at which time the Service would proceed with the restoration described in the site's planning documents. In 1988, however, the city determined that its needs had changed since the deal was consummated and expressed its desire to continue general aviation activities at the site beyond the legal cutoff date of 2002.

Throughout the discussions involving the continued use of the airpark beyond 2002 there has never been any offer by the City of Vancouver to repurchase the interests which the Federal government acquired at a cost of $554,500 some 18 years ago. Nor does S. 2771 require such action. We assume that the bill requires a donation to the city in spite of the fact that the Federal government already paid the city for the property. Decision makers should also keep in mind that the City acquired this portion of the airpark from the Federal government in the first instance by donation following World War II. In summary then, the government gave this portion of the airpark to the city, then paid to get it back, and is now being asked to give it to the city a second time. Mr. Chairman, we believe the terms of the earlier acquisition were negotiated in good faith with the city and should be upheld.

Mr. Chairman, the issue of the extension or reinstatement of retained use-and-occupancy rights seems to be of great interest of late, not just at Fort Vancouver. The Administration has consistently taken the view that supports the phase-out of activities which are inconsistent with the purposes for which parks have been set aside. Having successfully negotiated terms of use-and-occupancy with landowners and paid them for the remainder of their estates, we believe that it is counter productive to jump back into the real estate business and, in essence, sell additional rights to these former landowners. On what basis would we decide who could buy additional rights and who could not? There currently are approximately 1,600 use-and-occupancy holders within the units of the National Park System. In some cases these individuals are not even the parties of record in the original purchase agreements but have acquired them through subsequent sales. To this number could be added any number of former holders who might seek to purchase additional use-and-occupancy provisions which have subsequently expired. The numbers could be endless and the consequences of this process totally counter to the purposes for which Congress and the Administration have set aside parks.

Mr. Chairman, this concludes my prepared statement on S. 2771. I would be pleased to entertain questions at this time.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2771, as reported.

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